

§ 162.329 What other types of payments are required under a residential lease?

(a) The lessee may be required to pay additional fees, taxes, and assessments associated with the use of the land, as determined by entities having jurisdiction, except as provided in § 162.017. The lessee must pay these amounts to the appropriate office.

(b) If the leased premises are within an Indian irrigation project or drainage district, except as otherwise provided in part 171 of this chapter, the lessee must pay all operation and maintenance charges that accrue during the lease term. The lessee must pay these amounts to the appropriate office in charge of the irrigation project or drainage district. We will treat failure to make these payments as a violation of the lease.

BONDING AND INSURANCE

§ 162.334 Is a performance bond required for a residential lease document?

We will not require a lessee or assignee to provide a performance bond or alternative form of security for a residential lease document.

§ 162.335 Is insurance required for a residential lease document?

We will not require a lessee or assignee to provide insurance for a residential lease document.

§§ 162.336–162.337 [Reserved]

APPROVAL

§ 162.338 What documents are required for BIA approval of a residential lease?

A lessee or the Indian landowners must submit the following documents to us to obtain BIA approval of a residential lease:

(a) A lease executed by the Indian landowners and the lessee that meets the requirements of this part;

(b) For tribal land, a tribal authorization for the lease and, if applicable, meeting the requirements of §§ 162.320(a), 162.326(b), and 162.328(a), or a separate signed certification meeting the requirements of §§ 162.320(a), 162.326(b), and 162.328(a);

(c) A valuation, if required under § 162.320 or § 162.321;

(d) A statement from the appropriate tribal authority that the proposed use is in conformance with applicable tribal law, if required by the tribe;

(e) Reports, surveys, and site assessments as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements, including any documentation prepared under § 162.027(b);

(f) A preliminary site plan identifying the proposed location of residential development, roads, and utilities, if applicable, unless the lease is for housing for public purposes;

(g) A legal description of the land under § 162.317;

(h) If the lease is being approved under 25 U.S.C. 415, information to assist us in our evaluation of the factors in 25 U.S.C. 415(a); and

(i) If the lessee is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, that demonstrates that:

(1) The representative has authority to execute a lease;

(2) The lease will be enforceable against the lessee; and

(3) The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.

§ 162.339 Will BIA review a proposed residential lease before or during preparation of the NEPA review documentation?

Upon request of the Indian landowners, we will review the proposed residential lease after negotiation by the parties, before or during preparation of the NEPA review documentation and any valuation. Within 10 days of receiving the proposed lease, we will provide an acknowledgement of the terms of the lease and identify any provisions that, based on this acknowledgment review, would justify disapproval of the lease, pending results of the NEPA review and any valuation.